



SUSAN COMBS

Texas Comptroller of Public Accounts

# Texas Business Attitudes Toward Federal Health Care Reform



Taking the Pulse  
of Business on  
Federal Health Care Reform

## TABLE OF CONTENTS

Introduction	3
Background: National Federation of Independent Business	4
Background: Texas Association of Business	4
What Do Texas Businesses Say About Federal Health Care Reform?	5
Survey Questions	5-10
Market-Based Solutions for Health Insurance	11
Challenges to Federal Health Care Reform	12
State Legislation	12
Interstate Health Care Compact	12
Court Cases	13
Implementation Schedule for Federal Health Care Reform	14-15
Conclusion	14
For More Information	15

April 3, 2012

Ladies and Gentlemen:

Texans have charged my office with following and understanding the trends and events that affect our state's finances, and the state economy on which they depend.

*The federal health care legislation signed into law in March 2010 promises to create challenges for private employers in Texas and around the nation.*

It's important to know what our business community thinks of these changes, and what impacts they anticipate. My office is pleased to present this report, *Texas Business Attitudes Toward Federal Health Care Reform*, which reveals the positions and opinions of the leaders and membership of two of Texas' most prominent business organizations.

To prepare this report, we surveyed Texas members of the National Federation of Independent Business and the Texas Association of Business, and received replies from more than 900 owners of Texas businesses, large and small. We think you will find their opinions illuminating.

While we expected to find some skepticism regarding health care reform among the respondents, the overwhelming weight of opposition was truly surprising. *Only 3.4 percent of the employers we surveyed believe the legislation will be good for their businesses.*

We will continue to monitor the implementation of this federal initiative, which will affect both businesses and millions of individual Texans. We hope a better understanding of its potential costs and benefits can help lead to a more positive environment for the growth and success of our economy.

Sincerely,

  
Susan Combs

Rx

PATIENT NAME:  
ADDRESS:

*Many Thanks to Our Respondents*  
DIRECTIONS:

We want to thank the  
**National Federation of Independent Business**  
and the **Texas Association of Business**  
for allowing us to survey their members in  
preparation of this report.

We also thank the  
**more than 900 Texas businesses** that responded  
to the survey and let us know their opinions and  
feedback. Their help and participation  
made this report possible.

# Texas Business Attitudes Toward Federal Health Care Reform

## INTRODUCTION

Federal health care reform, which became law in March 2010, is intended to provide affordable and accessible health care coverage for all Americans. It also provides protections designed to help those who have insurance retain their coverage.

To help Texans better understand the potential effects of health care reform on Texas businesses and our state economy, the Comptroller's office issued a report in 2011, *Diagnosis: Cost – An Initial Look at the Federal Health Care Legislation's Impact on Texas*, examining a number of key provisions in the new law.

We also wanted to better gauge the Texas business community's views on the potential impacts of federal health care reform by reaching out to and hearing from the most businesses possible in Texas. This report is the product of that effort.

In putting together this report, we examined a wide range of business groups to gain insight into their views of the sweeping changes to come. Two major business associations in Texas, the National Federation of Independent Business (NFIB) and the Texas Association of Business (TAB), graciously agreed to participate in a survey of their members to gauge the opinions of Texas business owners.

Our office provided NFIB and TAB with an email explaining the survey's purpose and a link to a secure, anonymous and reputable survey tool, and asked each organization to forward it to their members. The survey link was forwarded to approximately 21,000 businesses, both large and small, in Texas. We received 919 survey responses, for a response rate of 4.4 percent.

We were very pleased with the responses, a representative sampling of which are excerpted in this report.



The new law does little to encourage business owners who do not provide healthcare coverage to their employees – it is more likely that an employer who provides coverage will drop benefits altogether or decrease their contribution.

— Will Newton,  
NFIB/Texas executive director

We certainly hope the act will be repealed and replaced with something that makes more sense for the business community and the economy, and will let the state make more of its own healthcare decisions.

— Bill Hammond, president and CEO,  
Texas Association of Business

## BACKGROUND: NATIONAL FEDERATION OF INDEPENDENT BUSINESS



The National Federation of Independent Business represents small businesses across the nation. In Texas, NFIB has more than **24,000** members.

- NFIB supports increasing the affordability and choice of health care for its members and their employees, but **opposes the employer mandate** in the Patient Protection and Affordable Care Act (PPACA), a major component of federal health care reform.
- Beginning in January 2014, this mandate will **require** employers with 50 or more employees to offer health insurance **for all full-time workers**, and will levy financial penalties on those who fail to do so.
- NFIB believes this requirement will lead to “**costly and confusing penalties; additional red tape; and higher prices passed on to consumers.**”
- NFIB has joined 26 states in **challenging the law’s constitutionality.**

In November 2011, NFIB’s Research Foundation released a study estimating that the legislation’s **new tax on health insurance premiums** could cost the nation up to **249,000 private-sector jobs** by 2021, with **59 percent** of them coming from small businesses.

- NFIB predicts **6,000** fewer jobs in Texas by 2021, **3,300** of them from small business, as well as **\$3.1 billion in lost sales** for Texas’ businesses due to federal health care legislation.

## BACKGROUND: TEXAS ASSOCIATION OF BUSINESS



The Texas Association of Business, with more than 3,000 members, works to create a favorable business climate in Texas. Because most Texans under the age of 65 currently obtain health care services through employer-sponsored insurance, they have a major stake in the efficiency and cost-effectiveness of Texas health care.

- TAB supports efforts to increase the availability and affordability of health coverage through **market-driven** health policies that allow for the continuation of **voluntary** employer-sponsored coverage.
- TAB **opposes** measures that **increase costs** for Texas employers and their employees and families, and **any mandates** that require employers to provide health care.

## WHAT DO TEXAS BUSINESSES SAY ABOUT FEDERAL HEALTH CARE REFORM?

To gauge reactions to federal health care reform in the Texas business community, the Comptroller's office conducted a survey of both Texas NFIB and TAB members. In all, **919** Texas businesses of various sizes responded (EXHIBIT 1). The organizations' members were surveyed separately and no duplicate responses are included in these results.

In some cases, quoted material has been edited for grammar and punctuation.

### SURVEY OF NFIB AND TAB MEMBERS

#### SURVEY QUESTION: 1

How many Texas employees does your business have?

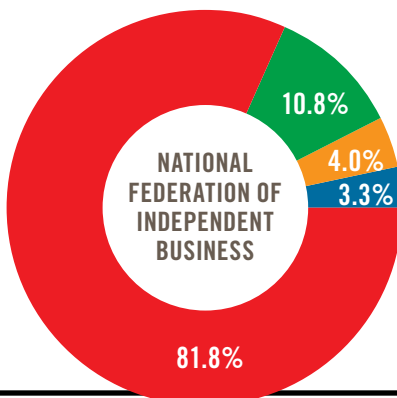
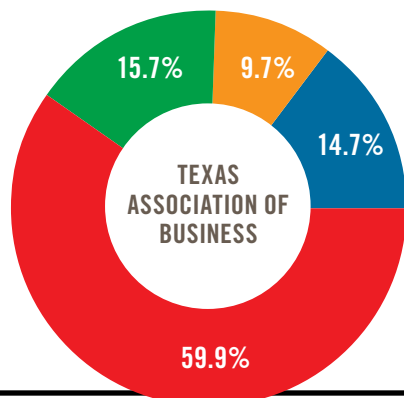
- In all, nearly three-quarters (**74.2 percent**) of respondents have fewer than 25 employees.
- More than **80 percent** of NFIB respondents have fewer than 25 employees, as do **60 percent** of TAB respondents (EXHIBIT 2).

#### EXHIBIT 2

### Survey Responses by Size of Business

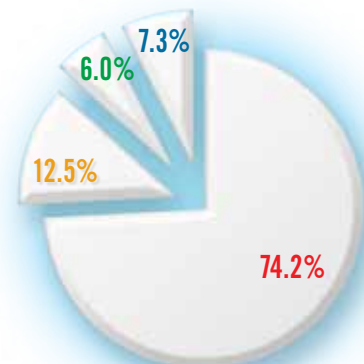
Size of Business Surveyed	TEXAS ASSOCIATION OF BUSINESS		NATIONAL FEDERATION OF INDEPENDENT BUSINESSES	
	Response Count	Percent	Response Count	Percent
<span style="color: red;">■</span> Fewer than 25 employees	191	<b>59.9%</b>	491	<b>81.8%</b>
<span style="color: green;">■</span> 25 to 49 employees	50	<b>15.7%</b>	65	<b>10.8%</b>
<span style="color: orange;">■</span> 50 to 99 employees	31	<b>9.7%</b>	24	<b>4.0%</b>
<span style="color: blue;">■</span> More than 100 employees	47	<b>14.7%</b>	20	<b>3.3%</b>
<b>TOTAL</b>	<b>319</b>		<b>600</b>	

SOURCE: TEXAS COMPTROLLER OF PUBLIC ACCOUNTS



#### EXHIBIT 1

Respondents to Comptroller Survey, Federal Health Care Reform



- Fewer than 25 employees
- 25 to 49 employees
- 50 to 99 employees
- More than 100 employees

SOURCE: TEXAS COMPTROLLER OF PUBLIC ACCOUNTS



Will Texas businesses receive any financial help with the cost of employee coverage?

Texas businesses with fewer than 25 employees will receive **tax credits** estimated at

**\$1.9 BILLION**

for fiscal **2010** through **2019**.

Details on tax credits for businesses to provide health insurance to their employees are from *Diagnosis: Cost – An Initial Look at the Federal Health Care Legislation's Impact on Texas* at <http://www.window.state.tx.us/specialrpt/healthFed/>.

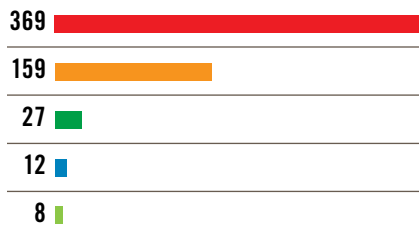
## SURVEY QUESTION: 2

Do you think federal health care reform under the Affordable Care Act will be good or bad for your business?

This question asked businesses indicating that federal health care reform was either “good” or “bad” to explain their answer. Of 629 businesses indicating that it was “good” or “bad,” 481 left additional comments explaining their answers. All comments “good” or “bad” fell into one or more of five general categories:

- Federal health care reform will increase costs;
- Oppose government intervention in health care;
- Uncertain on the effects of federal health care reform;
- Health care is good for all, regardless of price; and
- Federal health care reform will decrease costs.

The survey responses numbered as follows:



NOTE: RESPONDENT COMMENTS COULD FALL INTO ONE OR MORE OF THE GENERAL CATEGORIES LISTED ABOVE.

SOURCE: TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

- Nearly two-thirds of the respondents (**65.2 percent**) view federal health care as **bad for business** (EXHIBIT 3).
- Businesses with more than 100 employees had the most negative views, with **77 percent** answering “bad.”

A small percentage of respondents felt that federal health care reform was a positive for their businesses, most commonly asserting that access to quality health care coverage would lead to more productive workers. Positive comments included:

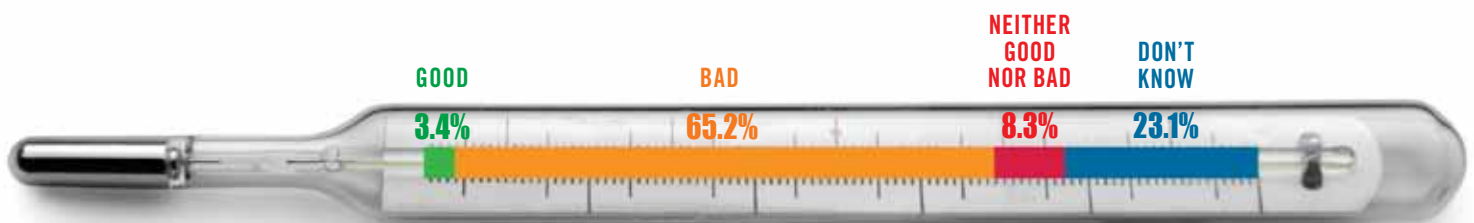
- “Health care is the **most requested benefit** for employees. This will help employee retention.”
- “**Healthy workers are more productive workers.**”
- “Initially premium costs may go up but once fully implemented I believe health care costs will level off. Costs were skyrocketing before the law was passed and was one of the reasons Washington felt the need to pass the reform. Personally, the **small business tax credit has already helped my business** and we made the decision to continue providing health care benefits for another year thanks in part to the advantages of the credit.”

Respondents who had a **negative** view of federal health care reform on their businesses most commonly said that it would **increase insurance premiums**, with increases of as much as **50 percent** mentioned.

In response, some business owners are reducing or eliminating health care coverage for employees; raising prices for goods and services; and delaying growth due to uncertainty about future costs. Comments included the following:

### EXHIBIT 3

## NFIB/TAB Member Views of Federal Health Care Reform Legislation



SOURCE: TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

- “It has **increased prices** on our health care benefits. In the 2011 renewal of our group health care coverage, we had to **decrease coverage** by raising coinsurance percentages in order to keep health care costs in line as a percentage of our revenue.”
- “It will **drive up the cost** of medical insurance with its mandated underwriting and coverage requirements. We do not currently offer group medical insurance to employees but had it within our objectives for the future before the health care reform was passed...”
- “In almost all circumstances, a government’s involvement **increases costs; reduces efficiency; adds significant paperwork and reporting; and diminishes service.**”

### SURVEY QUESTION 3

Has the federal health care reform affected your hiring decisions, or do you expect it to do so in the future?

- 12.5 percent of respondents have **reduced staffing** due to health care reform.
- Nearly **25 percent** of respondents anticipate that health care reform will force them to **eliminate or reduce** employee health coverage.
- Just over a third of the respondents, **36.5 percent**, felt that federal health care reform **would not affect their hiring or health care coverage decisions** (EXHIBIT 4).

### EXHIBIT 4

#### Reported Effects of Federal Health Care Reform on Hiring Decisions (per survey)

	TOTAL	FEWER THAN 25 EMPLOYEES	25 TO 49 EMPLOYEES	50 TO 99 EMPLOYEES	MORE THAN 100 EMPLOYEES
Have increased the number of current employees	1.1%	1.2%	0.0%	0.0%	3.1%
Have reduced the number of current employees	12.5%	12.9%	14.2%	7.3%	10.8%
Anticipate eliminating coverage in the next two years	10.2%	8.8%	14.2%	18.2%	10.8%
Anticipate reducing the number of employees covered in the next two years	14.5%	14.2%	13.3%	20.0%	15.4%
No changes made or anticipated	36.5%	37.4%	38.1%	30.9%	29.2%
Don't know	25.2%	25.6%	20.4%	23.6%	30.8%

SOURCE: TEXAS COMPTROLLER OF PUBLIC ACCOUNTS



Will Texas business be subject to any penalties for not providing employee coverage?

**Fines** and **penalties** paid by **Texas businesses** with **more than 50 employees** are **estimated** at

**\$9.3**  
**BILLION**

for fiscal **2010** through **2019**.

Details on fines and penalties businesses may have to pay to provide health insurance to their employees are from *Diagnosis: Cost – An Initial Look at the Federal Health Care Legislation's Impact on Texas* at <http://www.window.state.tx.us/specialrpt/healthFed/>.





#### SURVEY QUESTION: 4

Do you currently offer health insurance to your employees?

- Slightly less than half of respondents with fewer than 25 employees offer health insurance.
- About **94 percent** of businesses with 100 or more employees offer health insurance (EXHIBIT 5).

EXHIBIT 5

#### Current Insurance Status of Respondent Businesses

	TOTAL	FEWER THAN 25 EMPLOYEES	25 TO 49 EMPLOYEES	50 TO 99 EMPLOYEES	MORE THAN 100 EMPLOYEES
Provide health insurance to employees	58.8%	48.9%	81.6%	90.9%	93.9%
Do not provide health insurance to employees	41.2%	51.1%	18.4%	9.1%	6.1%

SOURCE: TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

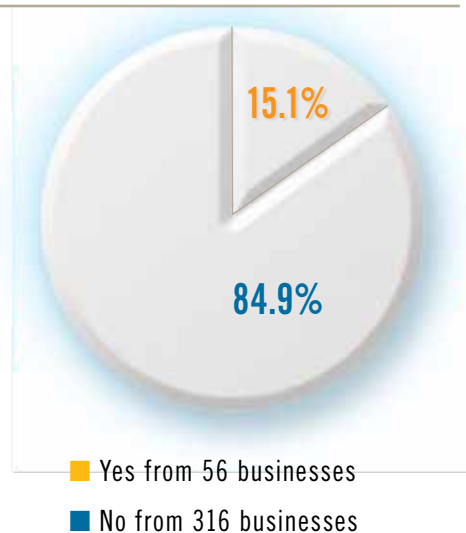
#### SURVEY QUESTION: 5

If you answered “No” to question 4, did you previously offer health insurance to your employees but have recently eliminated health insurance benefits?

- Nearly **85 percent** of businesses that do not currently offer insurance did not provide insurance to their employees in the past (EXHIBIT 6).

EXHIBIT 6 (SURVEY QUESTION 5)

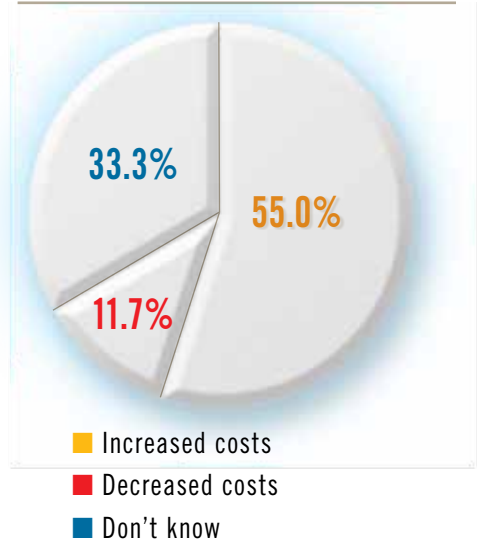
#### Previous Insurance Status of Respondent Businesses that Do Not Currently Provide Insurance



SOURCE: TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

EXHIBIT 7 (SURVEY QUESTION 7)

#### Respondents' Anticipated Changes to Insurance Costs Due to Federal Health Care Reform



SOURCE: TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

### SURVEY QUESTION: 6

Have you experienced or do you foresee any of the following changes to employee benefits as a result of federal health care reform?

- ☐ Increased the number of employees covered by health insurance
- ☐ Reduced the number of employees covered by health insurance
- ☐ Eliminated health insurance coverage for employees
- ☐ Anticipate increasing the number of employees covered by health insurance
- ☐ Anticipate reducing the number of employees covered in the next two years
- ☐ Anticipate eliminating coverage in the next two years
- ☐ No changes made or anticipated
- ☐ Don't know
- ☐ Other (please identify)

About half of respondents anticipate no changes to health benefits or don't know the effects. More than a hundred of the 900+ respondents, however, have reduced or eliminated coverage due to health care reform, and a similar number anticipate doing so within the next two years.

The question offered respondents an open-ended "other" option. Nearly all of the survey respondents who chose "other" reported having either an uncertain or a negative view of the effects of federal health care reform on employee benefits.

Responses reflecting the most common changes cited include:

- "The size of the law makes planning for small employers almost impossible. No guidance from my insurer yet."
- "We will have to reduce the amount of coverage we provide."
- "Employee share of costs will increase."

### SURVEY QUESTION: 7

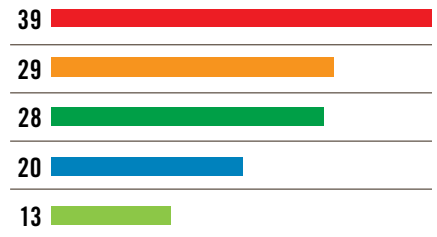
Do you foresee significant changes in the costs of benefits you provide to employees due to federal health care reform?

- More than half of respondents anticipate increased costs due to federal health care reform.
- A third of respondents don't know how costs will be affected, and nearly 12 percent feel federal health care reform will lead to decreased costs (EXHIBIT 7).

This question asked businesses to identify changes in employee benefits they had experienced or expected to see as a result of federal health care reform. In addition to the choices listed, it allowed businesses to give another answer in the "other" category. In all, **129** businesses supplied an answer for "other." The "other" comments, interestingly, essentially duplicated the listed choices, all falling into one or more of five general categories:

- Will push more health care costs to employees;
- Will reduce benefits or eliminate coverage;
- Will stop hiring or lay off employees;
- Uncertain as to how health care reform will affect them; and
- Have *already* reduced or changed health care benefits or workforce numbers.

The survey responses numbered as follows:



SOURCE: TEXAS COMPTROLLER OF PUBLIC ACCOUNTS



Insurance plans  
**cannot deny**  
**coverage** to any  
**INDIVIDUALS** with  
**PRE-EXISTING**  
**conditions.**

Details on coverage requirements for health insurance plans are from *Diagnosis: Cost – An Initial Look at the Federal Health Care Legislation's Impact on Texas* at <http://www.window.state.tx.us/specialrpt/healthFed/>.

## SURVEY QUESTION: 8

If you answered “Don’t Know” to any of the questions above, please indicate why you don’t know.

This question asked businesses that answered “don’t know” to any of the previous questions to explain why they didn’t know. In addition to the choices listed, it allowed businesses to provide another answer in the “other” category. In all, **79** businesses supplied an answer for “other.” These comments fell into one or more of three general categories:

- Federal health care reform will not affect the business because of its size or due to the use of contractors or part-time employees, and the business does not plan to offer insurance to its employees;
- The cost of insurance has already caused the business to drop or reduce coverage, and federal health care reform has nothing to do with it; and
- The business is uncertain what effect federal health care reform may have because so many of the law’s rules have yet to be determined, and the law itself may change due to the 2012 election, actions of Congress or challenges to its constitutionality.

The survey responses numbered as follows:



SOURCE: TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

- ☐ Have not received sufficient information about federal health care reform to make a decision.
- ☐ Have received conflicting information about federal health care reform making a decision difficult to determine at this time.
- ☐ Current economic conditions make a decision difficult to determine at this time.
- ☐ Other (please explain)

**More than half** of the respondents who answered “Don’t Know” to a part of the survey did so because they had not received sufficient information or had received conflicting information regarding federal health care reform and its effects.

**More than one-third** indicated that current economic conditions made it difficult to determine what effect federal health care reform would have on their businesses.

Question 8 offered respondents an open-ended “other” option. The most common difficulties cited include:

- “Seems **the rules keep changing**, and it’s difficult to know what will affect us and what will not. And **lots of misinformation** out there, too.”
- “There is so much of the law that currently no one knows — it is very difficult to determine real cost; however, **the more we learn, the higher the cost goes** and the more complex the administrative cost is.”
- “I feel my business is small enough that so much of what is being proposed does not apply to me.”
- “So many unknowns that I want to see things when they are in force. Until then, **nothing seems firm.**”
- “I really **do not know** for sure if I am required to cover my employees.”
- “I can’t understand what is going on, and **my employees can’t afford what is offered.**”

END OF SURVEY

## Market-Based Solutions for Health Insurance

Both the National Federation of Independent Business and the Small Business Coalition for Affordable Healthcare, an organization of more than 150 trade organizations, have outlined market-based policies they believe could lower health care costs for business and extend coverage to more Americans.

### SOME OF THESE POLICIES INCLUDE:

- **POOLING ARRANGEMENTS** to allow employers and individuals to pool together to obtain health insurance, which gives them greater market clout, spreads risks among more participants and lowers administrative costs. Such pools increase affordability for employers and offer more choices for individuals.
- **TAX INCENTIVES** that can supplement the cost of private health insurance for employers and individuals alike. They also can be used to create more equitable tax treatment for the self-employed and individuals who purchase their own insurance.
- **NEW INSURANCE PRODUCTS** that allow businesses to choose among various insurance packages to find the ones that best meet the needs of their workers. Such products could include account-based arrangements and “cafeteria-plan” options that allow consumers to spend healthcare dollars as they see fit.
- **USEFUL, EASILY UNDERSTANDABLE INFORMATION** on the costs, quality and performance of various insurance products, to help employers and individuals make informed decisions about their coverage.

SOURCE: NATIONAL FEDERATION OF INDEPENDENT BUSINESS, SMALL BUSINESS COALITION FOR AFFORDABLE HEALTHCARE



**Some businesses will be  
required to enroll  
NEW EMPLOYEES  
into health care plans  
and continue coverage for  
CURRENT EMPLOYEES.**

Details on coverage requirements for businesses are from *Diagnosis: Cost – An Initial Look at the Federal Health Care Legislation's Impact on Texas* at <http://www.window.state.tx.us/specialrpt/healthFed/>.

# Challenges to Federal Health Care Reform

## STATE LEGISLATION

Since the passage of the health care reform laws, **19 states** have passed legislation opposing its requirements. **Three states** — Arizona, Ohio and Oklahoma — amended their state constitutions to do so. In 2012, state constitutional amendments concerning health care reform will go before voters in Alabama, Florida, Montana and Wyoming.

According to the National Conference of State Legislatures (NCSL), as of March 27, 2012, at least **157 bills** opposing aspects of the health care legislation were awaiting action in **37 states**. These bills include:

- constitutional amendments;
- bans on state agency action for health care reform without legislative permission;
- “nullification” legislation rejecting aspects of federal jurisdiction; and
- bills authorizing participation in the Interstate Health Care Compact.<sup>1</sup>

## INTERSTATE HEALTH CARE COMPACT

The Interstate Health Care Compact (IHCC), an agreement among several states in response to federal health care legislation, is being promoted by the nonprofit Health Care Compact Alliance.

Under this compact, member states agree that:

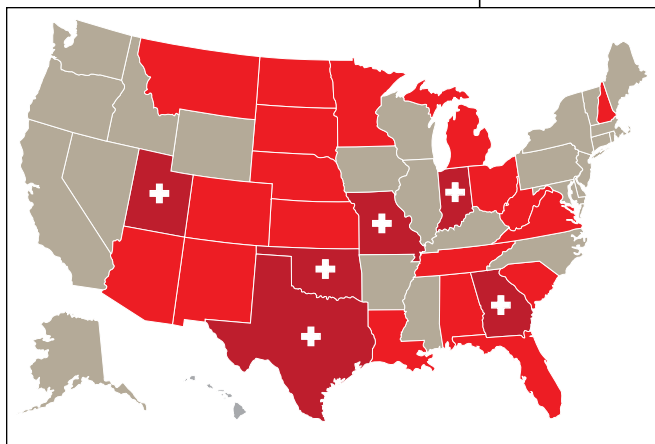
- states should have full discretion over health care spending;
- state regulations should supersede federal regulations concerning health care reform;
- states should receive federal health care funding each year in the form of direct block grants;
- an advisory committee should share data and best practices throughout the country; and
- at any time, states must be allowed to withdraw from the compact.

Member states must pass identical language to join the IHCC.<sup>2</sup>

Since the beginning of 2011, IHCC legislation has been filed in **24 states**, with **nine states** considering such bills in their 2012 sessions. In 2011 and 2012, **six states** — Texas, Oklahoma, Georgia, Missouri, Indiana and Utah — approved laws allowing them to join the compact. (Texas’ legislation was signed into law on July 19, 2011.) For more information on Texas’ IHCC legislation see Article 12 of Senate Bill 7 of the 82nd Special Legislative Session, at <http://www.capitol.state.tx.us/Home.aspx>.

### Status of Interstate Health Care Compact (IHCC) Legislation by State as of March 27, 2012

- States that have not filed IHCC legislation
- States that have filed IHCC legislation
- ⊕ States that have passed IHCC legislation





SOURCE: NATIONAL CONFERENCE OF STATE LEGISLATURES


Ultimately, compact members plan to seek federal legislation approving the arrangement, and will urge their Congressional delegations to block any attempt to undermine it.


## COURT CASES

As of March 2012, **26** state attorneys general have mounted legal challenges to health care reform as an unconstitutional expansion of federal power.<sup>3</sup> These lawsuits have challenged four provisions of the federal legislation:

 **INDIVIDUAL MANDATE** — most U.S. citizens and legal residents must purchase “minimum essential” health insurance coverage or pay a substantial fine for noncompliance.

 **MEDICAID EXPANSION** — states must expand their programs to cover non-elderly persons with incomes below 133 percent of the federal poverty level.

 **COVERAGE REQUIREMENTS** — insurers and self-insured group plans must issue and renew coverage without regard to the health status of the insured, and without annual or lifetime limits.

 **EMPLOYER RESPONSIBILITIES** — employers that offer no health plan or plans with inadequate subsidies for employees must pay penalties tied to their number of employees qualifying for a federal insurance subsidy based on income.<sup>4</sup>

States have mounted two primary federal court challenges to health care reform; several other private-party suits are in progress as well.

Virginia has pursued its legal challenge separately, in **Commonwealth of Virginia v. Sebelius**. U.S. District Judge Henry Hudson issued a ruling declaring the individual mandate unconstitutional on December 13, 2010. The Obama Administration appealed the case to the U.S. Court of Appeals for the Fourth Circuit. On September 8, 2011, the court rejected Virginia’s challenge “for lack of subject-matter jurisdiction”; within weeks, Virginia appealed the matter to the Supreme Court.

Twenty-five states including Texas have joined in **State of Florida v. the U.S. Department of Health & Human Services**. On January 31, 2011, U.S. District Judge Roger Vinson declared the individual mandate unconstitutional, and further said that the *entire package* of reform legislation is unconstitutional if the mandate is not upheld by the courts.

On August 12, 2011, the 11th U.S. Circuit Court of Appeals agreed that the individual insurance mandate is unconstitutional, but allowed the rest of the reform package to stand.<sup>5</sup> The Supreme Court heard oral arguments in the case in March 2012, with a ruling expected in summer.<sup>6</sup>

## ENDNOTES

1 National Conference of State Legislatures, “State Legislation and Actions Challenging Certain Health Reforms, 2011-2012,” by Richard Cauchi, February 17, 2012, <http://www.ncsl.org/issues-research/health/state-laws-and-actions-challenging-aca.aspx>. (Last visited February 22, 2012.)

2 Health Care Compact Alliance, “The Compact,” <http://healthcarecompact.org/compact>; and “Frequently Asked Questions,” <http://healthcarecompact.org/frequently-asked-questions-0>. (Last visited February 22, 2012.)

3 National Conference of State Legislatures, “State Legislation and Actions Challenging Certain Health Reforms, 2011-2012.”

4 George Washington University Hirsh Health Law and Policy Program and the Robert Wood Johnson Foundation, “Legal Challenges to the Affordable Care Act,” December 14, 2010, <http://www.healthreformgps.org/resources/health-reform-and-the-constitutional-challenges/>. (Last visited February 22, 2012.)

5 National Conference of State Legislatures, “State Legislation and Actions Challenging Certain Health Reforms, 2011-2012.”

6 Sam Baker, “Supreme Court Adds More Time for Oral Arguments on Obama Healthcare Law,” The Hill, February 21, 2012, <http://thehill.com/blogs/healthwatch/legal-challenges/211731-supreme-court-adds-more-time-for-healthcare-arguments>. (Last visited February 22, 2012.)

Federal health care reform, which became law in March 2010, is intended to provide affordable and accessible health care coverage for all Americans. It also provides protections designed to help those who have insurance retain their coverage. Some of the law's provisions went into effect in 2010, while others will be phased in through 2020. The following timeline shows when major provisions of the legislation become effective:

JANUARY 1, 2010

- Eligible beneficiaries with Medicare Part D coverage who enter the “donut hole” — a range of annual drug expenditures between \$2,800 and \$4,550 that must be paid out of pocket — can receive a one-time \$250 rebate to pay for prescription drugs purchased while in the donut hole.
- Businesses with 25 or fewer full-time employees that pay for at least 50 percent of employee premiums and pay average annual wages below \$50,000 may be eligible for a tax credit of up to 35 percent of the premiums they pay. The credits increase in 2014.

AUGUST 1, 2010

- Persons who have been without coverage for at least six months and who have pre-existing condition(s) can obtain coverage through a high-risk health insurance pool run by the federal government. The federal risk pool, called the Pre-Existing Condition Insurance Plan, is temporary until insurance exchanges become effective in 2014.

SEPTEMBER 23, 2010

- Insurers may not arbitrarily cancel your coverage when you get sick, except in cases of fraud.
- Insurers may not impose lifetime coverage limits, and may not set annual limits below certain levels until 2014.
- Insurers must cover preventive services with no co-payments or deductibles.

- Children may remain covered by their parents' plans until age 26 (unless they are receiving their own work-related coverage).
- Insurers may not deny coverage to a dependent child under age 19 due to pre-existing conditions. (The same will be true for adults beginning in 2014.)

JANUARY 1, 2011

- Seniors with Medicare Part D coverage in the “donut hole” begin receiving a 50 percent discount on brand-name drugs.

- For small group and individual plans, insurers must spend at least 80 percent of revenue from premiums on medical services and programs directly related to improving health care quality. The amount increases to 85 percent for large group plans. Insurers that fail to meet the minimum payment requirements must provide refunds to enrollees.

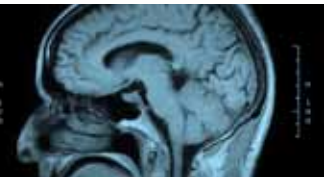
JANUARY 1, 2013

- Medicare payroll taxes increase for individuals earning more than \$200,000 annually and couples earning more than \$250,000 annually.

JANUARY 1, 2014

- Health care coverage is required for U.S. citizens and legal residents. The tax penalty is \$95 or 1 percent of taxable income in 2014, whichever is greater; \$326 or 2 percent of taxable income in 2015; and \$695 or 2.5 percent of taxable income in 2016. Annual penalties are adjusted according to income thereafter.
- States will create insurance marketplaces called “exchanges” to provide coverage for individuals and small businesses. The federal government will provide an exchange for states that choose not to or cannot establish an exchange by January 1, 2014. States can expand their exchanges to provide coverage for large employers in 2017.

- Premium subsidies are available for individuals and families with incomes between 133 percent (\$14,404 for an individual and \$29,326 for a family of four) and 400 percent (\$43,320 for an individual or \$88,200 for a family of 4) of the federal poverty level.
- States are required to expand Medicaid to certain individuals under age 65 (children, pregnant women, parents and adults without dependent children) who earn up to 133 percent of the federal poverty level.



- Insurers may not deny coverage to anyone due to pre-existing conditions.
- Insurers may not deny coverage because of a person's health status, medical condition, claims experience, medication history, genetic information or disability.

- Insurers must accept everyone who applies for coverage when they apply during a defined enrollment period.
- Insurers can base premiums only on age, tobacco use and geographic area, and on whether the coverage is for an individual or a family.
- Large employers who do not offer employee health care coverage must pay a penalty of \$2,000 for each full-time worker who receives a tax credit for health insurance through a state exchange.

- Tax credits for small employers rise to 50 percent of the health care premiums they pay.
- Businesses with more than 200 employees must automatically enroll employees in a health insurance plan.



- Medicare Part D discounts rise to 100 percent, eliminating the “donut hole.”

CONCLUSION

The results of this survey indicate that Texas business owners have some significant doubts about the wisdom and utility of the federal legislation. The Comptroller's office will continue to follow this important issue as the nation's new health care system takes shape. For more information on trends affecting Texas health care, visit the Comptroller's new website The Texas Economy at <http://thetexaseconomy.org>.

FOR MORE INFORMATION

**HealthCare.gov** <http://www.healthcare.gov/> This website maintained by the U.S. Department of Health & Human Services provides extensive information on comparing and selecting health insurance, as well as tips on disease prevention and healthy living. It also provides resources on federal health care reform.

**Texas Department of Insurance: Federal Health Care Reform Resource** <http://www.tdi.texas.gov/consumer/cpmhealthcare.html>

This site provides Texas-specific resources for businesses and individuals on federal health care reform and its implementation.

**Texas Association of Business (TAB): Health Care** [http://www.txbiz.org/advocacy/health\\_care.aspx](http://www.txbiz.org/advocacy/health_care.aspx) This page outlines TAB-endorsed legislative priorities designed to ensure that Texans and their families can access affordable, high-quality health care.

**National Federation of Independent Business (NFIB): Insurance Reform in Texas** <http://www.nfib.com/texas/nfib-in-my-state-content?cmsid=32453> This site describes NFIB's recommendations for Texas legislation to improve access to affordable health care.

**Texas Comptroller of Public Accounts: Texas Economy – Health Care** <http://www.thetexaseconomy.org/healthcare/> This site provides economic information on Texas

health care programs and services, as well as a detailed discussion of federal health care reform.

**National Conference of State Legislatures (NCSL): Health** <http://www.ncsl.org/issues-research/health.aspx> NCSL's site provides information and resources on federal health care reform, as well as related state legislation and legal challenges.

Implementation Schedule for Federal Health Care Reform

Source: Texas Department of Insurance, “Federal Health Care Reform Resource Page,” <http://www.tdi.texas.gov/consumer/cpmhealthcare.html>. (Last visited February 21, 2012.)

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This document can be found on the Web:  
<http://www.window.state.tx.us/specialrpt/healthcare/2012>



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